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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/831,094	11/21/2001	Elisa J. Bernklau	2730-65-PUS	8451
7590	01/24/2005		EXAMINER	
Joseph E Kovarik 1560 Broadway Suite 1200 Denver, CO 80202-5141			ARK, DARREN W	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 01/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Supplemental  
Notice of Allowability**

Application No.	Applicant(s)	
09/831,094	BERNKLAU ET AL.	
Examiner	Art Unit	
Darren W. Ark	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to \_\_\_\_\_.
2.  The allowed claim(s) is/are 10-25 and 27-151.
3.  The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All b)  Some\* c)  None of the:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date 8/25/2004.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

**DARREN W. ARK  
PRIMARY EXAMINER**

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

#### Specification:

Page 110, line 16, the phrase "Figs. 643 and 65" was changed to --Fig. 65--.

2. The following is an examiner's statement of reasons for allowance:

In regard to claim 10, the prior art of record does not disclose a method to attract termites, comprising providing an emitting source for emitting at least one gas of: (i) CO<sub>2</sub>, and (ii) one or more mimics thereof including haloalkanes and alkylcarbonates; wherein a concentration of said at least one gas is emitted from said openings, wherein said concentration is approximately at least 0.2% by volume of an ambient atmosphere.

In regard to claim 25, the prior art of record does not disclose a termite trap, comprising an emitting source for emitting at least one gas of: (i) CO<sub>2</sub>, and (ii) one or more mimics thereof; wherein said emitting source is provided in said enclosure, a

concentration of said at least one gas is emitted from said openings; wherein said concentration is at least about 0.2% by volume of air encountered by termites.

In regard to claim 45, the prior art of record does not disclose a termite trap, comprising means for emitting at least one gas of: (i) CO<sub>2</sub>, and (ii) one or more mimics thereof; wherein said means for emitting is provided within said enclosure, a concentration of said at least one gas is emitted from said openings; wherein said concentration is at least about 0.2% by volume of air encountered by termites, and said concentration is less than approximately 5% by volume of the air;

In regard to claim 46, the prior art of record does not disclose a method for attracting termites, comprising providing, in an enclosure having an interior for containing an emitting source for emitting at least one gas of: (i) CO<sub>2</sub>, and (ii) one or more mimics thereof; wherein with said emitting source in said enclosure, and at least most of said openings below ground, a concentration of said at least one gas is emitted from said openings below the ground; wherein said concentration is approximately at least four times a concentration of said at least one gas in an ambient atmosphere above the ground substantially at the location, and said concentration is less than approximately twenty-five times the concentration of said at least one gas in an ambient atmosphere above the ground substantially at the location.

In regard to claim 99, the prior art of record does not disclose a method to attract termites, comprising providing an emitting source for emitting at least one gas of: (i) CO<sub>2</sub>, and (ii) one or more mimics thereof; wherein with said emitting source in said enclosure, a concentration of said at least one gas is emitted from said openings;

wherein said concentration is approximately at least 0.2% by volume of air, and said concentration is less than an amount that is lethal to the termites.

In regard to claim 117, the prior art of record does not disclose a method to attract termites, comprising providing an emitting source for emitting at least one gas of: (i) CO<sub>2</sub>, and (ii) one or more mimics thereof; wherein with said emitting source in said enclosure; wherein said concentration is approximately at least 0.2% by volume of air, and said concentration is less than approximately 5% by volume of the air.

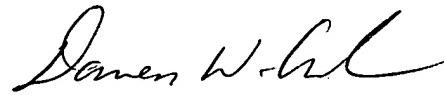
In regard to claim 134, the prior art of record does not disclose a termite trap, comprising an emitting source for emitting at least one gas of: (i) CO<sub>2</sub>, and (ii) one or more mimics thereof; wherein said emitting source is provided in said enclosure, a concentration of said at least one gas is emitted from said openings; wherein said concentration is at least about 0.2% by volume of air encountered by termites, and said concentration is less than an amount that is physiologically detrimental to the termites.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Ark whose telephone number is (703) 305-3733. The examiner can normally be reached on M-Th, 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Darren W. Ark  
Primary Examiner  
Art Unit 3643

DWA